



Douglas County
WATER CONSERVANCY BOARD
Application for Change/Transfer
Record of Decision

For Ecology Use Only
Received: <u>APR 24 2012</u>
Date Stamp
Reviewed by: _____
Date Reviewed: _____

Applicant: Marcus Griggs

Application Number: DOUG 11-03

This record of decision was made by a majority of the board at an open public meeting of the Douglas County Water Conservancy Board held on 4/16/12

☐ **Approval:** The Douglas County Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination on 4/16/12 and submits this record of decision and report of examination to the Department of Ecology for final review.

☐ **Denial:** The Douglas County Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination on _____ and submits this record of decision to the Department of Ecology for final review.

Signed:

Lee Hemmer
Lee Hemmer, Chair
Douglas County Water Conservancy Board

Date: 4-16-12

Approve ☒
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

Kathalene Humphrey
Kathalene Humphrey, Vice Chairman
Douglas County Water Conservancy Board

Date: 4-16-2012

Approve ☒
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

Don Popoff
Don Popoff, Member
Douglas County Water Conservancy Board

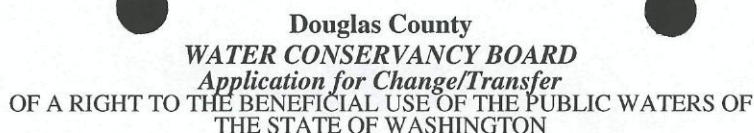
Date: 4-16-12

Approve ☐
Deny ☐
Abstain ☐
Recuse ☒
Other ☐

Mailed to the Department of Ecology Central Regional Office of Ecology, and other interested parties on 4/23/12

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Changes Proposed: ☐ Change purpose ☐ Add purpose ☐ Add irrigated acres ☐ Change point of diversion/withdrawal
 ☒ Add point of diversion/withdrawal ☒ Change place of use ☐ Other (Temporary, Trust, Interties, etc.)

The board has reviewed the provisions of the State Environmental Policy Act of 1971, Chapter 43.21C RCW and the SEPA rules, chapter 197-11 WAC and has determined the application is: ☒ Exempt ☐ Not exempt

Board’s Decision on the Application

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE A) 5.0 B) 103.75	MAXIMUM ACRE-FT/YR A) 2.0 B) 42.21	TYPE OF USE, PERIOD OF USE A) Continuous Domestic B) Irrigation of 9.72 acres April 15 th to October 15th				
SOURCE Wells			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: PARCEL NO. A)25213240001 B)TBD	¼ N1/2	¼ SE W1/2	SECTION 32 21	TOWNSHIP N. 25 25	RANGE 21E 21E	WRIA 44 44	COUNTY. Douglas Douglas
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD							
A) The N 440 feet of the W1/2 of the NESE and those portions of the N440 feet of the NENWSE East of the State Highway and except the S 293.1 feet of the West 370.5 feet in Section 32, T25N, R21E.W.M. and except for existing orchard and P.U.D. right of way Douglas County WA parcel #25213210034 in addition to:							
B) The undeveloped and arable portions of: The NWNW and the SWSW of Section 22 T25N, R21E, Douglas County, and the E1/2 Section 21, T25N, R21E, Douglas County, Except the South 400 feet of the West 800 feet of the NWNE and the South 15 feet of Government Lot 1 and the North 15 feet of Government Lot 2, tax parcels numbered 25212110001 and 25212220001.							
PARCEL NO. 25213210034 25212110001 25212220001	¼	¼	SECTION 32 22 21	TOWNSHIP N. 25N 25N 25N	RANGE, R21E R21E R21E		

The applicant wishes to develop additional well(s) to assist with irrigation in a new place of use.

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE: 10/1/2008	COMPLETE PROJECT BY THIS DATE: 10/1/2010	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE: 2015
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REPORT**BACKGROUND**

(i) A description of the water right proposed for transfer, including the board-assigned water right change application number, and the board's tentative determination as to the validity and quantification of the right, as well as the historical water use information that was considered by the board;

The applicant filed for changes to the subject water right as referenced above. Said application was accepted by the Board on that filing date and given the above indicated application number. Public notice of the application was given in the Douglas County Empire Press on March 1, 2012 and March 8, 2012 (see attached). The protest period ended on 4/6/12. In addition to publication, notice was sent to the Department of Fish and Wildlife and other parties on record as having requested notice (See attached).

Attributes of the water right as currently documented (see attached):

Name on certificate: Marcus Griggs

Water right document number: G3-00570

As modified by certificate of change number: Doug 9-06 (see PCHB Decision #10-164 & 10-165)

Priority date: 12/1/1971

Water Quantities: Irrigation: Qi 103.75gpm Qa: 42.21afy and Qi: 5.0gpm Qa:2.0afy

Source: well

Point of diversion/withdrawal: N1/2 SE1/4 Sec. 32, T25N, R21E

Period of use: Irrigation April 15th to October 15th and continuous domestic

Place of use: The N 440 feet of the W1/2 of the NESE and those portions of the N440 feet of the NENWSE East of the State Highway and except the S 293.1 feet of the West 370.5 feet in Section 32, T25N, R21E.W.M. Douglas County, WA.

Changes as recited in the notice are as follows:

Ground Water Certificate G3-00570C was issued to Marcus Griggs with a priority date of December 1, 1971 to use 450gpm, 235.4afy from April 15th to October 15th for the irrigation of 46 acres and 10gpm, 2.5afy continuously, for domestic purposes from a well located in the N1/2 SE1/4 Section 32, T25N, R21E in Douglas County, Washington for use in portions of:

NE1/4 SE1/4 of the east 20 acres of Government Lot 5, Sec. 32, T25N, R21 EWM Douglas County, WA

As per Pollution Control Hearing Board Decision #10-164 and 10-165, the extent and validity of the Marcus Griggs portion of the above referenced right was determined to consist of 103.75gpm, 44.21afy from April 15th to October 15th for the irrigation of 9.72 acres and 5.0gpm, 2.0afy continuously, for domestic purposes from a well located in the N1/2 SE1/4 Section 32, T25N, R21E in Douglas County, Washington for use in: The N 440 feet of the W1/2 of the NESE and those portions of the N440 feet of the NENWSE East of the State Highway and except the S 293.1 feet of the West 370.5 feet in Section 32, T25N, R21EWM parcel #25213210034.

The proposed changes are limited to the above referenced Marcus Griggs portion of the right and includes the addition of one well located within the W1/2 Section 21, T25N, R21E, in Douglas County Washington to use 103.75gpm, 42.21afy from April 15th to October 15th for the irrigation of 9.72 acres and 5.0gpm, 2.0afy continuously, for domestic purposes all for use in:

The undeveloped and arable portions of:

The NWNW and the SWSW of Section 22 T25N, R21E, Douglas County, and the E1/2 Section 21, T25N, R21E, Douglas County, Except the South 400 feet of the West 800 feet of the NWNE and the South 15 feet of Government Lot 1 and the North 15 feet of Government Lot 2, tax parcels numbered 25212110001 and 25212220001.

In addition to:

The N 440 feet of the W1/2 of the NESE and those portions of the N440 feet of the NENWSE East of the State Highway and except the S 293.1 feet of the West 370.5 feet in Section 32, T25N, R21E.W.M. and except for existing orchard and P.U.D. right of way Douglas County WA parcel #25213210034.

Signatures:

All signatures necessary for the proposed change application have been provided (See PCHB Decisions #10-164 and 10-165).

Tentative Determination:

The source of water, location of diversion, place of use, and extent of beneficial use are as tentatively described on the front page of this report.

The subject right was previously changed as per Douglas County Water Conservancy Board change application Doug 09-06 and subsequent PCHB Decisions #10-164 and 10-165 regarding the existence of a determined future development. These actions have resulted in the administrative division of the Marcus Griggs portion of the right as described in the Investigation Section below.

Hearings for the subject change application were held in Douglas County by the Douglas County Water Conservancy Board.

SEPA

This change involves the withdrawal of less than 2250gpm. In addition, the cumulative sum of all change applications associated with this project involve the withdrawal of less than 2250gpm. No other local permits are required for the land clearing and orchard planting associated with this project which would require a SEPA review. As such, this change is exempt from the State Environmental Policy Act pursuant to WAC 197-11-800(4).

Proposed Use:

The proposed change of use is as described on the front page of this report. The applicant desires to transfer the irrigation portion of the right to a new place of use and develop an additional well to assist with irrigation at this location. The domestic portion of the right shall be retained to supply water at the original residence, seasonal worker housing, and an agricultural processing plant which are all located within the existing place of use.

History of water use (See PCHB Decision #10-164 and 10-165):

The history of water use for the subject right is as described within prior change application Doug #9-06 and Pollution Control Hearing Board Decisions #10-164 and 10-165. The contents of these documents are fully incorporated by reference within this Report of Exam.

Ecology previously reviewed the Conservancy Board's approval decision concerning an application filed by one of the appurtenant property owners (Monroe Bickford) to change the Bickford portion of Certificate G3-00570-C (DOUG 09-06). Ecology modified the Conservancy Board's decision to relinquish the Orondo Fruit portion of the right. Ecology's decision was based on its conclusions that insufficient documentation had been provided to establish a determined future development (DFD) exemption from relinquishment for the Orondo Fruit portion of the water right.

The Orondo Fruit Company timely appealed Ecology's relinquishment decision contained within DOUG 09-06 (approving Bickford's application to change the Bickford portion of the right). This appeal was consolidated with Marcus Griggs' appeal of Ecology's reversal of the Conservancy Board's approval of the Griggs' applications for change/transfer of the Waddell and Thorson claims (DOUG 09-03 and 09-04).

On September 20, 2011 the Pollution Control Hearings Board issued opinions Nos. 10-164 and 10-165 regarding the above noted appeals in which it held the appellant had met the requirements for a determined future development and remanded the referenced applications to Ecology for approval subject to reasonable conditions and limitations as related to ACQ.

As per PCHB decisions #10-164 and 165, the applicant now submits the subject change application for the purposes of adding a new POW and a new POU as well as preserving the existing POW and POU for previously identified domestic uses.

COMMENT AND PROTESTS

There were no protests received during the 30 day protest period. In addition no oral and written comments were received at an open public meeting of the board or other means as designated by the board.

INVESTIGATION: The information contained in this section was developed, authored, and/or reviewed by Dan Haller, Mark Peterson, Marc Marquis, and members of the Douglas County Water Conservancy Board following onsite visits, a review of available public records and aerial images, and conversations with the Applicant.

Change application Doug 9-06 and subsequent Pollution Control Hearings Board Decisions 10-164 and 10-165 have resulted in the administrative division of the right and confirmed the existence of a determined future development for the Orondo Fruit portion of the right. These PCHB decisions are fully incorporated herein this Report of Examination.

Tentative Determination:

As per Doug 9-06 and Pollution Control Hearings Board Decisions 10-164 and 10-165, the extent and validity of the Marcus Griggs/Orondo Fruit portion of the right is as follows:

Domestic	Qi: 5.0gpm	Qa: 2.0af	
<u>Irrigation</u>	<u>Qi: 103.75gpm</u>	<u>Qa: 42.21af</u>	
	Qi: 108.75gpm	Qa: 44.21af	Totals

Geologic, Hydrogeologic, or other Scientific Investigations:

The attached hydrogeologic analysis and subsequent technical memo prepared by Steven Nelson, Licensed Hydrogeologist, is incorporated by reference as if fully set forth herein. In summary, it finds that the historic and proposed places of use and proposed points of withdrawal and diversion are within an alluvial plain that is primarily recharged by the adjacent Columbia River. The high degree of permeability of the aquifer and its connection to the Columbia River eliminate the possibility of impairment to adjacent wells located within 200ft of the proposed point of withdrawal. Similarly these conditions confirm that the changes will result in withdrawals from the same body of groundwater. To assure the well taps the same body of water it will need to be constructed within the described alluvial strata and not penetrate bedrock. See provisions for well construction set forth below.

CONCLUSIONS

The water right proposed for change exists to the extent set forth above on page 1.

The water right authorized for change is in a valid exercisable status with regard to the amounts proposed for change, the statutory forfeiture provisions of Chapter 90.14 RCW are not met relative to the amounts requested for change. At no time was there intent by the water right holder(s) to abandon the rights authorized for change.

As per PCHB decisions 10-164 and 10-165, a determined future development is applicable to formerly irrigated acreage.

This change is exempt from the State Environmental Policy Act pursuant to WAC 197-11-800(4).

There were no comments or protests.

The proposed change will withdraw water from the same body of water and will not impair any existing water rights.

The public interest is served by this transfer of ground water as it facilitates land use in a manner consistent with the relevant planning policies. There are no detriments to the public interest resulting from the proposed changes.

Approval of this change will not enlarge the right.

DECISION

Name on Water Right:	Marcus Griggs
Priority Date:	12/1/71
Instantaneous Quantity:	A) 5.0gpm, Domestic B) 103.75gpm, Irrigation
Annual Quantity:	A) 2.0af Domestic B) 42.2af Irrigation
Source:	wells
Point of Diversion:	A)N1/2 SE1/4 Section 32, T25N, 21E Douglas County, WA parcel #25213240001 B) TBD W1/2 Section 21, T25N, 21E Douglas County, WA
Purpose of Use: (and number of acres irrigated)	A) Domestic B) 9.72 acres irrigation
Period of Use:	A)continuous domestic B)Irrigation April 15 th to October 15 th
Place of Use::	A)The N 440 feet of the W1/2 of the NESE and those portions of the N440 feet of the NENWSE East of the State Highway and except the S 293.1 feet of the West 370.5 feet in Section 32, T25N, R21E.W.M. and except for existing orchard and P.U.D. right of way Douglas County WA parcel #25213240034 in addition to: B)The undeveloped and arable portions of: The NWNW and the SWSW of Section 22 T25N, R21E, Douglas County, and the E1/2 Section 21, T25N, R21E, Douglas County, Except the South 400 feet of the West 800 feet of the NWNE and the South 15 feet of Government Lot 1 and the North 15 feet of Government Lot 2, tax parcels numbered 25212110001 and 25212220001.

PROVISIONS


The following provisions are to be included as a part of the application approval decision referred to in the preceding section:

1. The amount of water granted is a maximum limit that shall not be exceeded and the water user shall be entitled only to that amount of water within the specified limit that is beneficially used and required. This authorization shall in no way excuse the permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations including those administered by other programs of the Department of Ecology.
2. The applicant shall have a development schedule for completion of the facilities related to the changes approved by this Final Order as set forth above. Provided that, for good cause, the dates for development set forth above may be extended by the Department of Ecology (hereinafter Ecology) upon request of the applicant.
3. Upon satisfaction of the development schedule, and notification thereof to the Department of Ecology, a superseding certificate shall be issued to the applicant by the Department of Ecology containing the attributes set forth above.
4. An approved measuring device shall be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", Chapter 173-173 WAC.
5. Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions.
6. Chapter 173-173 WAC describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed as a document entitled "Water Measurement Device Installation and Operation Requirements".
7. Water use data shall be recorded weekly. The maximum rate of diversion/withdrawal and the annual total volume shall be submitted to Ecology by January 31st of each calendar year.
8. Reported water use data shall be submitted via the Internet or by using forms available at the Central Regional Office of the Department of Ecology in Yakima. To set up an Internet reporting account, access <https://fortress.wa.gov/ecy/wrx/wrx/Meteringx/>. If you have questions or need forms, contact the Central Regional office.
9. This authorization is subject to Washington Department of Fish and Wildlife juvenile salmon and gamefish screening criteria (pursuant to RCW 77.55.040).

10. All water wells constructed pursuant to this authorization shall be constructed so as not to penetrate bedrock and shall be limited to the sediments comprising the alluvial plain referred to in the supporting hydrogeologic report.
11. Proposed water wells developed pursuant to this authorization shall be constructed no less than 200ft from adjacent wells.

The undersigned board commissioner certifies that he/she understands the board is responsible "to ensure that all relevant issues identified during its evaluation of the application, or which are raised by any commenting party during the board's evaluation process, are thoroughly evaluated and discussed in the board's deliberations. These discussions must be fully documented in the report of examination." [WAC 173-153-130(5)] The undersigned therefore, certifies that he/she, having reviewed the report of examination, knows and understands the content of this report and concurs with the report's conclusions.

Signed at Waterville, Washington.
April 16, 2012



Lee Hemmer, Chair
Douglas County Water Conservancy Board

Attachments:

1. Application
2. Application Maps
3. Copy of the Existing Water Right Document
4. Hydrogeologic Opinion and Tech Memo
5. Notice of Application and Declaration of Publication
6. Letter of Transmittal to Department of Fish and Wildlife